

HOUSE BILL 795

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 6, relative to opportunity scholarships.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding Sections 2 through 8 of this act as new part 83.

SECTION 2. A public school student's parent may request and receive from the state an opportunity scholarship for the student to enroll in and attend a private school in accordance with the provisions of this section if:

(1)

(A) By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has been designated as a high priority school as defined in Section 49-1-601 and the student's attendance occurred during a school year in which such designation was in effect;

(B) The student has been in attendance elsewhere in the public school system and has been assigned to such school for the next school year; or

(C) The student is entering kindergarten or first grade and has been notified that the student has been assigned to such school for the next school year.

(2)

(A) The parent has obtained acceptance for admission of the student to a private school eligible for the program and has notified the department of education and the LEA of the request for an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

(B) The provisions of this section shall not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in a department of children services program. For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school. However, at any time upon reasonable notice to the department of education and the LEA, the student's parent may remove the student from the private school and place the student in a public school.

SECTION 3. In addition to other school choice options available under No Child Left Behind, 20 U.S.C. §§6301 et seq.,

(a) A LEA shall, for each student enrolled in or assigned to a school that has been designated as high priority for two (2) school years in a 4-year period:

(1) Timely notify the parent of the student as soon as such designation is made of all options available pursuant to this section.

(2) Offer that student's parent an opportunity to enroll the student in the public school within the district that has been designated by the state as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned. The parent is not required to accept this offer in lieu of requesting a state opportunity scholarship to a private school. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(b) The parent of a student enrolled in or assigned to a school that has been designated as a high priority school for two (2) school years in a 4-year period may choose as an alternative to enroll the student in and transport the student to a higher-

performing public school that has available space in an adjacent LEA, and that LEA shall accept the student and report the student for purposes of the district's funding pursuant to the BEP.

(c) For students in the LEA who are participating in the state opportunity scholarship program, the LEA shall provide locations and times to take all statewide assessments required pursuant to law.

(d) Students with disabilities who are eligible to receive services from the LEA under federal or state law, and who participate in this program, remain eligible to receive services from the LEA as provided by federal or state law.

(e) If for any reason a qualified private school is not available for the student or if the parent chooses to request that the student be enrolled in public school that is not a high priority school, rather than choosing to request the state opportunity scholarship, transportation costs to the higher performing public school shall be the responsibility of the LEA.

SECTION 4. To be eligible to participate in the opportunity scholarship program, a private school must be a Tennessee private school, may be sectarian or nonsectarian, and must:

(1) Demonstrate fiscal soundness by being in operation for one (1) school year or provide the department of education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the department;

(2) Notify the department of education and the LEA in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the opportunity scholarship program;

(3) Comply with the antidiscrimination provisions of 42 U.S.C. §. 2000d;

(4) Meet state and local health and safety laws and codes;

(5) Accept scholarship students on an entirely random and religious-neutral basis without regard to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis;

(6) Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent for meeting the educational needs of the student. The private school must furnish a school profile which includes student performance;

(7) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;

(8) Comply with all state statutes relating to private schools;

(9) Accept as full tuition and fees the amount provided by the state for each student;

(10) Agree not to compel any student attending the private school on an opportunity scholarship to profess a specific ideological belief, to pray, or to worship; and

(11) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any opportunity scholarship student.

SECTION 5.

(a) Any student participating in the opportunity scholarship program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(b) The parent of each student participating in the opportunity scholarship program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(c) The parent shall ensure that the student participating in the opportunity scholarship program takes all statewide academic assessments.

(d) A participant who fails to comply with this section shall forfeit the opportunity scholarship.

SECTION 6.

(a) The maximum opportunity scholarship granted for an eligible student shall be a calculated amount equal to the average per pupil expenditure for pupils in the LEA.

(b) The amount of the opportunity scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. Fees eligible shall include textbook fees, lab fees, and other fees related to instruction, including transportation.

(c) The LEA shall report to the department of education all students who are attending a private school under this program. The students attending private schools on opportunity scholarships shall be reported separately from those students attending public schools for purposes of the BEP.

(d) The public or private school that provides services to students with disabilities shall receive the weighted funding for such services at the appropriate funding level

(e) Following annual notification on July 1 of the number of participants, the department of education shall transfer from each LEA's appropriated funds the calculated amount from the BEP and authorized categorical accounts to a separate account for the opportunity scholarship program for quarterly disbursement to the parents of participating students.

(f) Upon proper documentation reviewed and approved by the department of education, the commissioner shall make opportunity scholarship payments in four (4) equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The initial payment shall be made after department of education verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the department of education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school.

SECTION 7. No liability shall arise on the part of the state based on any grant or use of an opportunity scholarship.

SECTION 8. The state board of education may adopt rules pursuant to title 4, chapter 5, to implement the provisions of this section. The provisions of this act do not expand the regulatory authority of the state, its officers, or any LEA to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

SECTION 9. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 2007, the public welfare requiring it.